

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-1475**

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JOSEPH P. PNIEWSKI,

Plaintiff - Appellant,

versus

MARJORIE MARTORELLA, individually and in her  
official capacity as special prosecutor of  
Wayne County; WAYNE COUNTY COMMISSION; WEST  
VIRGINIA PROSECUTING ATTORNEYS,

Defendants - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Huntington. Robert C. Chambers,  
District Judge. (CA-04-354)

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Submitted: November 22, 2005

Decided: December 1, 2005

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Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Joseph P. Pniewski, Appellant Pro Se. Richard Gregory McNeer,  
CAMPBELL, WOODS, BAGLEY, EMERSON, MCNEER & HERNDON, Huntington,  
West Virginia; Matthew Albert Kelly, Huntington, West Virginia;  
Steven Kenneth Nord, David E. Rich, OFFUTT, FISHER & NORD,  
Huntington, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Joseph P. Pniewski seeks to appeal the district court's order adopting the magistrate judge's recommendation and dismissing the West Virginia Prosecuting Attorneys Institute from the case, dismissing all claims against Marjorie Martorella in her official capacity, and dismissing the federal claims against Martorella in her individual capacity. The case is proceeding on Pniewski's state law claims against Martorella in her individual capacity and his claims against the Wayne County Commission.

This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders. 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Pniewski seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED